

CITY COUNCIL AGENDA

DECEMBER 13, 2005

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5
RON GONZALES MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 924-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:00 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent – Council Members: None.

1:30 p.m. - Regular Session, Council Chambers, City Hall
Absent – Council Members: None.

7:00 p.m. - Public Hearings, Council Chambers, City Hall
Absent – Council Members: None.
- **Invocation (Mayor)**
Rabbis Dan Magat and Iman Tahinawar delivered words of prophetic tradition.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Amended Agenda and Orders of the Day were approved.

1. CEREMONIAL ITEMS

- 1.1** Presentation of a check for \$150,000 from PG&E to the City for the energy efficiency measures installed in the New City Hall. (Environmental Services)
Deferred to January 10, 2006.
- 1.2** Presentation of a commendation to Louie Mendoza for his many years of hard work, dedication, and commitment in serving as President of Senter Road Creekside Neighborhood Association. (Nguyen)
HEARD IN THE EVENING
Mayor Gonzales and Council Member Nguyen presented a commendation to Louie Mendoza for his years of hard work, dedication and commitment to the Senter Road Creekside Neighborhood Association.

1. CEREMONIAL ITEMS

- 1.3 Presentation of a commendation to the Baker Family for 50 years of relentless efforts in working with the City of San José to make improvements to Towers Lane, which was completed in November 2005. (Nguyen)

HEARD IN THE EVENING

Mayor Gonzales and Council Member Nguyen presented a commendation to the Baker Family for 50 years of relentless efforts in working with the City of San José to improve Towers Lane.

2. CONSENT CALENDAR

- 2.1 Approval of Minutes.
None.

- 2.2 Final adoption of ordinances.

Recommendation: Final adoption of ordinances:

- (a) ORD. NO. 27622 – Rezones certain real property situated on the west side of Boynton Avenue (489 Boynton Avenue) to A(PD) Planned Development Zoning District.

Ordinance No. 27622 adopted.

- (b) ORD. NO. 27623 – Rezones certain real property situated on the southeast corner of Curci Drive and Saint Elizabeth Drive (1460 Curci Drive) to A(PD) Planned Development Zoning District.

Ordinance No. 27623 adopted.

- (c) ORD. NO. 27624 – Rezones a portion of that certain real property situated on the southeast corner of Curci Drive and Saint Elizabeth Drive (1460 Curci Drive), approximately 355 feet easterly of Saint Elizabeth Drive to CO Commercial Office Zoning District.

Ordinance No. 27624 adopted.

- (d) ORD. NO. 27625 – Rezones certain real property situated on the east side of Lincoln Avenue, approximately 100 feet north of Coe Avenue (996 Lincoln Avenue) to CP Commercial Pedestrian Zoning District.

Ordinance No. 27625 adopted.

- (e) ORD. NO. 27626 – Amends Title 6 of the San José Municipal Code, Section 6.84.030, to clarify the nature of targeted law enforcement areas under that section, to further modify Chapter 6.84 to allow for consideration of greater public benefit in public convenience or necessity determinations, to add a new Chapter 6.86 establishing operating regulation and an inspection program for off-sale alcoholic beverage establishments, and amending Title 20, Section 20.80.600, to provide for a development permit requirement for conversions of gasoline service stations and to make other clarifying or technical changes to Title 20.

Ordinance No. 27626 adopted. Disqualified: Cortese, Reed.

2. CONSENT CALENDAR

2.3 Approval to amend an agreement for consulting services related to implementation of the Airport Master Plan.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the fourth amendment to the agreement with AvAirPros for consulting services related to technical, financial, and operational issues during implementation of the Master Plan, increasing compensation by \$240,000 from \$490,000, for a total agreement amount not to exceed \$730,000, and extending the term of the agreement from December 16, 2005 to December 15, 2006. CEQA: Resolution Nos. 67380 and 71451, PP 05-211. (Airport)

Resolution No. 73006 adopted.

2.4 Approval of an agreement with an Independent Investigator for the San José Elections Commission.

Recommendation: Adoption of a resolution authorizing the City Clerk to negotiate and execute an agreement with G. Edward Pitter and Associates to provide investigation services to the San Jose Elections Commission for a term beginning December 1, 2005 and extending through June 30, 2007, in an amount not to exceed \$10,000. (City Clerk)

Resolution No. 73007 adopted.

2.5 Approval to amend an agreement with the VTA for the completion of the Recycled Water Pipeline Project.

Recommendation: Approval of a third amendment to the agreement between the City and Santa Clara Valley Transportation Authority (VTA) to extend the term of the agreement by one year to December 31, 2006, and to increase the project construction contingency amount by \$100,000, to a total project amount not to exceed \$2,192,250 for completion of construction of the recycled water pipeline in the Interstate 880 (I-880)/Coleman Avenue Interchange area. CEQA: Resolution No. 71448, PP03-02-071. (Environmental Services)

Approved.

2.6 Approval of the annual certification of the City of San José Investment Policy.

Recommendation: Adoption of a resolution approving the annual certification of the City of San José Investment Policy and certain revisions thereto. CEQA: Not a Project. (Finance)

Resolution No. 73008 adopted.

2. CONSENT CALENDAR

2.7 Approval of open purchase orders for supplies, materials, equipment and services for Fiscal Year 2005-2006.

Recommendation: Approval of award of open purchase orders for supplies, materials, equipment and services for FY 2005-2006 #8 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)

Approved.

2.8 Approval of an agreement for software licensing and maintenance for Telestaff Software for the Police Department.

Recommendation: Adoption of a resolution authorizing the Director of Finance to:

- (a) Execute a Software License and Support Agreement with Principle Decision Systems International ("PDSI") for sole source purchase of expanded licensing in the amount of \$190,621 including sales tax, implementation services, training and first year maintenance; and
- (b) Purchase subsequent annual maintenance and support without further Council action other than the appropriation of funds.

CEQA: Not a Project. (Finance)

Resolution No. 73009 adopted.

2.9 Approval to assign an existing lease for a Kiosk on Paseo de San Antonio to the new owners of the business.

Recommendation: Adoption of a resolution authorizing the Director of General Services to negotiate and execute an assignment of the existing lease for the Kiosk at 98 Paseo de San Antonio from the current Tenants, Malak Naderjah & Khosrow Rakhshanifar, owners of Rosies & Posies Downtown Florist, to the purchasers of that business, Leyla Naderjah and Jon F. Hellesoe. CEQA: Not a Project. (General Services)

Resolution No. 73010 adopted.

2.10 Approval of fiscal actions related to the Madden Avenue/Jackson Avenue Park Turnkey Project.

Recommendation:

- (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:
 - (1) Establish an appropriation to the Department of Public Works in the amount of \$43,000 for the Madden Avenue/Jackson Avenue Park Turnkey Project; and
 - (2) Increase the estimate for Earned Revenue by \$43,000.

Ordinance No. 27628 adopted.

Resolution No. 73011 adopted.

2. CONSENT CALENDAR

2.10 approval of fiscal actions related to the Madden Avenue/Jackson Avenue Park Turnkey Project. (Cont'd.)

Recommendation:

- (b) Approval of a Turnkey Parkland Agreement with Jackson Square, LLC, for Planned Development Permit PD04-008, associated with Tentative Map No. PT04-015.

CEQA: Mitigated Negative Declaration, PDC03-036. Council District 5. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Approved.

2.11 Approval of the Calabazas Park Master Plan Amendment to include a BMX site.

Recommendation: Approval of the Calabazas Park Master Plan Amendment to include a BMX site. CEQA: Exempt, PP05-189. Council District 1. (Parks, Recreation and Neighborhood Services)

Approved.

2.12 Approval of fiscal actions related to the Hellyer Piercy Improvement District.

Recommendation: Adoption of the following appropriation ordinance and funding sources resolution amendments in the Construction Excise Tax Fund:

- (a) Establish an appropriation to the Department of Public Works for the Hellyer Piercy Improvement District No. 99-218SJ, Contract #3 project in the amount of \$129,000.

- (b) Increase the estimate for Earned Revenue by \$129,000.

CEQA: Resolution No. 69699, PP02-10-284. Council District 2. SNI: Edenvale. (Public Works/City Manager's Office)

Ordinance No. 27629 adopted.

Resolution No. 73012 adopted.

2.13 Approval of an ordinance related to construction standards for Flood Zone A99.

Recommendation: Approval of an ordinance of the City of San José amending Chapter 17.08 of Title 17 of the San José Municipal Code to add construction standards for Flood Zone A99, accessory structures, crawlspaces, and add the requirement for cumulative tracking of improvements to existing structures; and other minor revisions to conform the City's Flood Hazard Ordinance to the National Flood Insurance Program regulations.

CEQA: Exempt, File No. PP05-217. (Public Works)

Ordinance No. 27630 passed for publication.

2. CONSENT CALENDAR

2.14 Approval of various actions related to land acquisition for the Los Gatos Creek Trail Project.

Recommendation: Adoption of a resolution authorizing the purchase of portions of real property owned by Gerald R. Graham, Sr., Trustee, for the immediate reconveyance of the Graham property to James P. McCarthy and Jean M. McCarthy, the adjacent property owner, in exchange for an easement and a twenty four month temporary construction easement, and authorizing the Director of Public Works to complete negotiation of the purchase agreements and to execute any additional documents necessary to complete these transactions as follows:

- (a) Gerald R. Graham, Sr., Trustee, in the amount of \$328,000 for:
 - (1) The acquisition of fee title of approximately 6,425 square feet of a portion of 812 West Home Street; and
 - (2) Payment for relocating and installing a new water meter in the area of the proposed Los Gatos Creek Trail Project; and
- (b) James P. McCarthy and Jean M. McCarthy, Trustees, in the amount of \$40,000 together with the portion of the 812 West Home Street parcel for:
 - (1) The acquisition of a surface trail easement of approximately 3,480 square feet; and
 - (2) A twenty-four month temporary construction easement of approximately 1,242 square feet on an adjoining portion of the 802 West Home Street in the area of the proposed Los Gatos Creek Trail Project.

CEQA: Mitigated Negative Declaration, PP04-01-014. Council District 6. (Public Works)

Resolution No. 73013 adopted.

2.15 Approval of a change order for the New City Hall Voice and Data Cabling Project.

Recommendation: Approval of an increase to the construction contract contingency for IDEX Global Services Contract for the San José New City Hall Voice and Data Cabling Project in the amount of \$22,069, for a total contingency of \$321,069, and a total contract amount of \$3,311,940. CEQA: Resolution No. 68905, PP98-03-072. (Public Works)

Approved.

2.16 Approval to award a contract for the Hensley Historic District Pedestrian Street Lighting Improvements Project.

Recommendation:

- (a) Report on bids and award of contract for the Hensley Historic District Pedestrian Street Lighting Improvements Project - Phase 2 to the low bidder, Pacific Electric, Inc., in the amount of \$290,400, and approval of a contingency in the amount of \$39,000.

Approved.

Disqualified: Gonzales abstained due to a potential conflict.

(Item continued on next page.)

2. CONSENT CALENDAR

2.16 approval to award a contract for the Hensley Historic District Pedestrian Street Lighting Improvements Project. (Cont'd.)

Recommendation:

(b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(1) Establish the 13th Street SNI Pedestrian Street Light Improvement Project (PSM 429) appropriation to the Department of Public Works in the amount of \$219,000.

(2) Increase the estimate for Earned Revenue by \$219,000.

CEQA: Addendum to Draft Negative Declaration, PP05-158. NEPA : G69

Categorically Exclusion. Council District 3. SNI: 13th Street. (Public Works/City Manager's Office)

Ordinance No. 27627 adopted.

Resolution No. 73005 adopted.

Disqualified: Gonzales abstained due to a potential conflict.

2.17 Approval of the grant agreement with Our City Forest for Fiscal Year 2005-2006.

Recommendation: Approval of the Operating Grant Agreement with Our City Forest for Fiscal Year 2005-06 in the amount of \$141,000. CEQA: Not a Project, File No. PP04-313. (Transportation)

Approved.

2.18 Approval of an amendment to extend a lease agreement for the Almaden/Woz Way Parking Lot.

Recommendation: Approval of a Sixth Amendment to a Lease Agreement between the City of San José (City) and Boston Properties (dba BP Almaden Associates, LLP) to include the following:

(a) A one-year lease extension until December 31, 2006, in the amount of \$264,600 (\$22,050 per month) for the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard; and

(b) Allow the City to use a portion of the parking lot for the Northern California Motorcycle Show scheduled on the weekend of December 16th-18th, 2005; and

(c) Allow the placement and public use of grandstands for the San José Grand Prix event scheduled for the weekend of July 28th - 30th, 2006.

CEQA: Resolution No. 72767, and addenda thereto, File No. PP05-180. District 3. (Transportation)

Approved.

2. CONSENT CALENDAR

2.19 Approval of an agreement with the VTA for purchase of Eco Passes for City employees.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute agreements with the Santa Clara Valley Transportation Authority (VTA) for the purchase of Eco Passes for City employees in an amount not to exceed \$200,000 per calendar year, subject to City Council appropriation of funds. CEQA: Not a Project. (Transportation)

Resolution No. 73014 adopted.

2.20 Acceptance of the Annual Progress Report on the Implementation of the Housing Element.

Recommendation: Acceptance of the Annual Progress Report on the Implementation of the Housing Element. CEQA: Not a Project. (Housing/Planning, Building and Code Enforcement)

The Report was accepted.

2.21 Adoption of a resolution ordering the reorganization of territory designated as Evergreen No. 190.

Recommendation: Adoption of a resolution ordering the reorganization of territory designated as Evergreen No. 190, which involves the annexation to the City of San José of 4.10 acres of land more or less, located on the east side of Yerba Buena Road, approximately 1870 feet of Verona Road, and adjacent to the City of San José annexations of Evergreen Nos. 151 and 152 and the detachment of the same from Central Fire Protection, Area No. 01 (Library Services) County Services. CEQA: Resolution No. 63179, File No. PDC98-035. Council District 8. (Planning, Building and Code Enforcement)

Resolution No. 73015 adopted.

2.22 Approval of fiscal actions for Redevelopment Agency Capital Projects related to the Grand Prix.

Recommendation: Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):

(a) Establish an appropriation to the Department of Public Works for the San José Grand Prix 2006 Conceptual Design project in the amount of \$200,000.

(b) Increase the estimate for Earned Revenue by \$200,000.

(City Manager's Office)

(Rules Committee referral 12/7/05)

Ordinance No. 27631 adopted.

Resolution No. 73016 adopted.

2. CONSENT CALENDAR

2.23 Approval of actions related to the Tour of California Bicycle Race.

Recommendation:

- (a) Approval of the use of City streets for the Amgen Tour of California Stage 2 Finish on Tuesday, February 21, 2006 and the Stage 3 Time Trials on Wednesday, February 22, 2006;
Approved.

- (b) Adoption of a resolution authorizing the City Manager to negotiate and execute a participation agreement with AEG Cycling, LLC, for the Stage 2 Finish and Stage 3 Time Trials of the 2006 Amgen Tour of California, in an amount not to exceed \$160,000; and
Resolution No. 73017 adopted.

- (c) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with the San José Sports Authority to provide support services for the 2006 Amgen Tour of California, as convener of the Local Organizing Committee for said Tour.

(Economic Development)

(Rules Committee referral 12/7/05)

Resolution No. 73018 adopted.

2.24 Approval of a fee resolution establishing a Second Unit Clearance fee.

Recommendation: Adoption of a resolution amending Resolution No. 72737, the Schedule of Fees and Charges for Fiscal Year 2005-2006, to establish a secondary unit clearance fee in the amount of \$250. CEQA: Not a Project. (Planning, Building and Code Enforcement)

(Rules Committee referral 12/7/05)

Resolution No. 73019 adopted.

2.25 Adoption of a resolution resolving disputes regarding rates for equipment that may be charged by Comcast of California II, LLC.

Recommendation: Adoption of a resolution resolving disputes regarding rates for equipment that may be charged by Comcast of California II, LLC. (City Attorney's Office)

Resolution No. 73020 adopted.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair There were none.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 30, 2005

Vice Mayor Chavez, Chair

- (a) Redevelopment Agency
 - (1) Review December 13, 2005 Draft Agenda
 - (2) Add New Items to December 6, 2005 Agenda
 - (3) List of Reports Outstanding
- (b) City Council
 - (1) Review December 13, 2005 Draft Agenda
The Committee approved three additions.
 - (2) Add New Items to December 6, 2005 Agenda
The Committee approved two additions.
 - (3) List of Reports Outstanding
The Committee noted and filed the City Manager's report.
- (c) Legislative Update
 - (1) State
There was no report.
 - (2) Federal
There was no report.
- (d) Meeting Schedules
There were none.
- (e) The Public Record
The Committee noted and filed the Public Record and referred the letter from David S. Wall regarding no motorcycle parking at City Hall to staff.
- (f) Appointments to Boards, Commissions and Committees
There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Approval of Request for District 1 Festival in the Park Event
The Committee recommended an appropriation of \$4,494 for the Festival in the Park 2005 event. Source of Funds: Special Events Account.
 - (2) Approval of Travel by Mayor Gonzales to Charlotte, North Carolina, December 6-9, 2005 to attend the National League of Cities and Exposition. Source of Funds: Mayor and City Council Travel Fund
The Committee recommended approval to travel and use of the Mayor and Council Travel fund.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – November 30, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

(h) Open Forum

None.

(i) Adjournment

The meeting adjourned at 2:13 p.m.

Report of the Rules Committee – December 7, 2005

Vice Mayor Chavez, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review December 20, 2005 Council Agenda

MEETING CANCELLED

(2) Add New Items to December 13, 2005 Agenda

The Committee added 13 additions.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State

There were none.

(2) Federal

There were none.

(d) Meeting Schedules

There were none.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

(1) Cellular Communication Coverage at City Hall Work Load Assessment

The Committee deferred this item for one week to the December 14, 2005 Rules Committee Meeting.

(h) Oral Communications

Bill Chew discussed the City's emergency preparedness and his concerns regarding no discussion s on the involvement of Neighborhood Associations in disaster response planning.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – December 7, 2005 (Cont'd.)

Vice Mayor Chavez, Chair

- (i) Adjournment

The meeting was adjourned at 2:28 p.m.

The Rules Committee report and actions of November 30 and December 7, 2005 were accepted.

3.3 Report of the Making Government Work Better Committee – December 1, 2005 Council Member Reed, Chair

- (a) Discussion of Recent Problems with Public Employment Pension Systems and Analysis of Lessons Learned for San José's Pension System

The Committee accepted the report to include Chair Reed's recommendation for staff to prepare a supplemental report explaining the answer to Number 3 of the staff report, "Health Care Benefits", in order to understand the difference between the way it was explain in the CAFR and the way it was explained in the staff report.

- (b) Activities and Accomplishments of the City Auditor

The Committee approved the report.

- (c) City Auditor Peer Review

The Committee accepted the report.

- (d) Semi-Annual Auditor Recommendations Follow Up Report on all Outstanding Audit Recommendations as of June 30, 2005

The Committee approved the staff recommendations to include additional recommendations made by Chair Reed.

- (e) Oral Petitions

Mr. Chew expressed concern that the New City Hall had no exercise facility or child day care center for employees' children. Mr. Chew said these should be included in the New City Hall.

- (f) Adjournment

The meeting adjourned at 3:23 p.m.

The Making Government Work Better Committee report and actions of December 1, 2005 was accepted.

3. STRATEGIC SUPPORT SERVICES

3.4 Approval to amend an agreement for citywide custodial services.

Recommendation: Adoption of a resolution authorizing the Director of Finance to execute an amendment of the agreement with Acme Building Maintenance for citywide Custodial Services, increasing compensation for the fourth option period as extended by \$1,110,174.54, from \$2,220,349.46 to a not to exceed amount of \$3,330,524 and extending the term of the agreement from January 10, 2006 to July 9, 2006. CEQA: Not a Project. (Finance)

Resolution No. 73021 adopted.

Staff directed to ensure they continue to involve Municipal Employees Federation in the process, prior to returning to Council.

3.5 Approval to award a contract for Semi-Custom Fire Engine Pumper Apparatus.

Recommendation:

- (a) Report on bids and award the purchase of three 1500 GPM Semi-Custom Fire Engine Pumper Apparatus to the low bidder, Ferrara Fire Apparatus, Inc., for a total amount not to exceed \$1,296,324.06, including tax; and

Approved.

- (b) Authorization for the Director of Finance to execute the purchase order and to purchase additional quantities on an as-required basis at the same unit price for a period of twelve months after the initial award is placed without further Council action other than the appropriation of funding.

CEQA: Not a Project. (Finance)

Approved.

3.6 Approval of the procurement strategy for the Storage Area Network in the City Hall.

Recommendation: Acceptance of the Procurement Strategy that outlines the process for selecting contractor(s) for the successful acquisition of a Storage Area Network (SAN) for the City's Network Operations Center (NOC), located at City Hall and direction of the Director of Finance to proceed with the procurement process and schedule, as outlined.

CEQA: Not a Project. (Finance/Information Technology)

Approved.

Staff directed to provide an info memo to the Council, demonstrating how the procurement process will comply with the management reforms approved by Council on 1-25-05.

3. STRATEGIC SUPPORT SERVICES

3.7 Approval of the Mayor's 2005 Biennial Ethics Review.

Recommendation: Approval of the Mayor's 2005 Biennial Ethics Review (Mayor)
Council approved a memorandum from Mayor Gonzales, dated December 9, 2005, accepting the work of the Blue Ribbon Task Force, and; approving the following directions: (a) Direct the City Clerk and City Attorney to bring back to the Rules Committee a status report of the revised Gift Ordinance by February 2006; (b) Direct the City Attorney to review and bring forward to Council any possible updates to the "Commission/Liaison Code of Conduct and Ethics Guidelines," and once adopted, include this policy in the Council Policy Manual; (c) Direct the City Attorney and City Manager to develop a Council Policy regarding "Conflict of Interest in Procurement," in accordance with the report on this matter (titled "Supplemental Report - Request for Proposal Procedure and other Procurement Reforms Procedures") presented to the Making Government Work Better Committee on November 17 and accepted by City Council on December 6. This Policy should include all elements of the Procurement Process Integrity Guidelines adopted by Council on November 9, 2004, and will be applied to all competitive processes. Staff should bring this to Council by March 2006; (d) Direct the City Manager to continue his work on the Independent Judgment Policy and Interaction Policy, and bring to Council by Spring 2006; (e) Direct the City Attorney and City Clerk to provide an information memo to the City Council, and to board and commission members and staff, regarding the letter and spirit of laws and policies regulating open meetings by public agencies, including Brown Act requirements and related matters.

In addition, the Council referred to the City Attorney's Office, a memorandum from Council Member Reed, dated December 12, 2005, recommending direction to staff to bring back to Council specific recommendations for clarifying our duty to disclose material facts and for changing closed session procedure as described therein.

3.8 Acceptance of the Initial Report of the Independent Investigator on the review of issues associated with the NorCal Recycle Plus contract and contract extension.

Recommendation:

- (a) Acceptance of the Initial Report of the Independent Investigator and Council discussion regarding further action:

(City Auditor/Independent Investigator)

The Report was accepted. Noes: Cortese, Reed.

3. STRATEGIC SUPPORT SERVICES

3.8 Acceptance of the Initial Report of the Independent Investigator on the review of issues associated with the NorCal Recycle Plus contract and contract extension. (Cont'd.)

Recommendation:

- (b) Bring forward as part of the review of the initial report the following actions relating to the Norcal negotiations and subsequent contract amendment:
- (1) Censure the Mayor;
Resolution No. 73029 adopted.
Council approved a memorandum from Vice Mayor Chavez, Council Member LeZotte, and Council Member Yeager, dated December 13, 2005, recommending approval of the attached resolution Censuring Mayor Gonzales for his conduct, relating to the award of the 2002 Recycle Plus! Agreement by the City of San José to Norcal Waste Systems, Inc.
 - (2) Admonish Joe Guerra, the Director of Policy and Budget for the Mayor, and recommend the Mayor's Office take appropriate disciplinary actions; and,
 - (3) Request public apologies from Del Borgsdorf, the City Manager, and Rick Doyle, the City Attorney, for their actions relating to the Norcal.
 - (4) Direct the City Attorney to prepare a cover letter, or other appropriate documentation and to forward the report as the Council formal response to the Grand Jury investigation;
 - (5) Waive confidentiality of all documents utilized, including those privileged in the creation of the Initial Report; and,
 - (6) Direct staff to incorporate training on the City Charter and other appropriate city policies in an effort to prevent future violations, such as those outlined in the initial report.

(Vice Mayor/LeZotte/Yeager)

Approved.

Staff directed to bring back to Council on January 10, 2006 discussions about recommendations put forth by Council Member Yeager to: (1) require the Mayor to submit his Draft Budget message to a Council Committee before it is submitted to the full Council, and (2) consider removal of the Mayor from Committees he serves on as the City's representative.

3.9 Approval of an agreement with the San José Police Officers' Association.

Recommendation: Adoption of a resolution approving the terms of a Memorandum of Agreement with the San José Police Officers' Association (SJPOA), and authorizing the City Manager to execute the agreement, subject to ratification of the SJPOA membership. (City Manager's Office)

(Rules Committee referral 12/7/05)

Resolution No. 73022 adopted.

3. STRATEGIC SUPPORT SERVICES

3.10 Approval of an agreement with the International Association of Fire Fighters, Local 230.

Recommendation: Adoption of a resolution approving the terms of a Memorandum of Agreement with the International Association of Fire Fighters, Local 230 (IAFF), and authorizing the City Manager to execute the agreement, subject to ratification of the IAFF membership. (City Manager's Office)
(Rules Committee referral 12/7/05)

Dropped

3.11 Approval of one appointment to the Evergreen East Hills Vision Strategy Task Force.

Recommendation: Approval of one appointment to the Evergreen East Hills Vision Strategy Task Force. CEQA: Exempt, PP03-349. Council Districts 5, 7, and 8. SNI: KONA, West Evergreen, and East Valley/680. (Planning, Building and Code Enforcement)
(Rules Committee referral 12/7/05)

Approved.

3.12 Presentation of information related to SBC's permit request.

Recommendation: Presentation of information regarding franchise requirements for SBC's permit request to install facilities to support internet protocol television (IPTV) services (Project Lightspeed). (Public Works/Information Technology/City Manager's Office)
(Rules Committee referral 12/7/05)

Deferred to 1/10/06.

3.13 Approval of various actions related to the Northside Community Center and Filipino-American Operations.

Recommendation:

- (a) Acceptance of a follow-up report from the City Auditor summarizing the June 28, 2005 audit report, follow-up memorandums presented to the Making Government Work Better Committee, work completed to date, and outstanding items still remaining;

The report was accepted.

- (b) Acceptance of a Report from the Director of Parks, Recreation and Neighborhood Services summarizing post-audit actions taken by the Department with respect to Fil-Am and outstanding items still remaining;

The report was accepted.

3. STRATEGIC SUPPORT SERVICES

3.13 Approval of various actions related to the Northside Community Center and Filipino-American Operations. (Cont'd.)

Recommendation:

- (c) Recommendation regarding two proposed options for consideration for alternative operation of the JTS Northside Community Center and the terms of a proposed grant agreement to Fil-Am, all as set forth in the Director's memo to the MGWB committee dated November 9, 2005.

(Parks, Recreation and Neighborhood Services)

[Making Government Work Better Committee referral 11/17/05 – Item 3.3(b)]

(Deferred from 11/29/05 – Item 3.8 and 12/6/05 – Item 3.4)

Council approved a memorandum, as amended, from Vice Mayor Chavez, Council Member Yeager, and Council Member Cortese, dated December 13, 2005, recommending approval of the following recommendations designed to ensure the continuance of quality programming that reflects the diversity of constituents in the surrounding neighborhood: (1) Allow existing agreement with Fil-Am SODC to expire on December 31, 2005; (2) Request that Parks, Recreation and Neighborhood Services assume operational responsibility for JTS Northside Community Center effective January 1, 2006 through June 30, 2006; (3) Direct PRNS staff to complete an expedited process to identify an alternative operator for the facility by June 30, 2006. The process shall include a comprehensive needs assessment and a competitive Request for Proposals to identify the most qualified provider that can meet the service demands identified through the community process; (4) Ensure that the JTS Northside CC be made available to culturally-sensitive community organizations; (5) Make JTS Northside CC available for additional community uses, ensuring the priority of the services needed by Northside Community; (6) Reallocate the \$58,354 general fund money to PRNS to pay for expenses associated with operating JTS Northside Community Center; (7) PRNS staff is requested to develop recommendations for the formation of a Programming Advisory Committee. Committee membership would include diverse community representation with an emphasis on Filipino American community services.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee Council Member Chirco, Chair

There were none.

4.2 Report of the Driving a Strong Economy Committee Council Member Williams, Chair

There were none.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.3 Acceptance of an update on the San José Earthquakes Professional Major League Soccer Team.

Recommendation: Acceptance of an update on the status of the administration's efforts to retain the Earthquakes Professional Major League Soccer Team in San José.

(Economic Development)

(Rules Committee referral 12/7/05)

Dropped.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair

There were none.

5.2 Approval of actions related to the acquisition of property by eminent domain for the Roosevelt Multi-service Community Center Project.

Recommendation: Adoption of a resolution determining that the public interest and necessity require the acquisition of two properties owned by Tron D. Do, a married man, as his sole and separate property located at 32 and 40 North 20th Street, San José, CA (APN Nos. 467-12-009 & 010) and authorizing the City Attorney to file suit in eminent domain to acquire such properties interest, to apply for an order for possession before judgment, to prosecute the action to final judgment, authorizing the deposit of money in court for possession of the property from the funds lawfully available and settle any relocation claims stemming from the City's purchase of these properties. CEQA: Mitigated Negative Declaration, File No. PP03-12-397. Council District 3. (Public Works)

Resolution No. 73023 adopted.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair

There were none.

6. TRANSPORTATION & AVIATION SERVICES

6.2 Approval of an ordinance to add the prohibition of commercial vehicles in excess of five tons in the Spartan Keyes Neighborhood.

Recommendation: Approval of an ordinance amending Section 11.96.070 of Chapter 11.96 of Title 11 of the San José Municipal Code (SJMC) to add a prohibition of commercial vehicles in excess of five tons on the following streets with a 24-hour, 7-day a week prohibition except Seventh Street, which will have a prohibition between the hours of 8:00 p.m. and 6:00 a.m. on a daily basis:

- (a) Vistapark Drive, between Capitol Expressway and Branham Lane.
- (b) Martha Street, between 5th Street and its easterly terminus.
- (c) Humboldt Street, between 5th and 10th Streets and between 11th and 12th Streets.
- (d) Sixth Street, between Virginia and Humboldt Streets.
- (e) Eighth Street, between Martha and Humboldt Streets.
- (f) Ninth Street, between Martha and Humboldt Streets.
- (g) Twelfth Street, between Martha and Humboldt Streets.
- (h) Seventh Street, between Virginia and Keyes Streets.

Council Districts 3 and 10. SNI: Spartan/Keyes. CEQA: Exempt, PP05-218.
(Transportation)

HEARD IN THE EVENING

Ordinance No. 27633 passed for publication.

Council approved a memorandum from Vice Mayor Chavez, Council Member Pyle and Council Member Williams, dated December 13, 2005, recommending Council approve an ordinance amending Section 11.96.070 of Chapter 11.96 of Title 11 of the San José Municipal Code (SJMC) to add a prohibition of commercial vehicles in excess of five tons within the VEP and Spartan Keys neighborhood; with the following direction to staff: (1) Work with CalTrans to provide appropriate signage for truck traffic exiting I-280 ramps. Install proper signage on city streets that identifies both the 24/7 ban on small, residential streets and the 8pm to 6am restriction on 7th Street commercial vehicles. Trucks may utilize alternative routes to access the commercial area south of this neighborhood during the evening hours; (2) Collect traffic data before the truck restrictions are placed and 18-months after the lane reduction project on 10th & 11th Streets are completed, including possible impacts of Highway 87 construction traffic; (3) At the end of the 18-month pilot program within the Spartan Keyes neighborhood, reconvene the Truck Traffic Committee to review the traffic data and identify if any adjustments to the truck restrictions are necessary. This meeting will be convened after the final data collection is completed and analyzed; (4) Review the extension of the turning lane at Phelan and 10th (within this established industrial area) and examine further alternative route options to protect future trucking routes and operations; (5) During the next General Plan update, explore addressing resident and business needs as it relates to truck traffic citywide through specific planning studies and establishment of truck routes; (6) Study truck volume on Narvaez Avenue to ensure Vistapark Drive truck traffic is properly shifted to Snell Avenue.

Staff further directed to document concerns made by stakeholders in the beginning of the pilot program in order to re-evaluate at the end of the pilot program to ensure all concerns were addressed.

7. ENVIRONMENTAL & UTILITY SERVICES

7.1 Approval of the Municipal Water Supply Assessment for Evergreen East Hills Vision Strategy.

Recommendation: Approval of Muni Water's Water Supply Assessment for Evergreen East Hills Vision Strategy. CEQA: Exempt, File PP03-10-349. (Environmental Services)

Approved.

7.2 Approval of recycle plus contract extensions.

Recommendation:

- (a) Drop the recommendation for staff to negotiate an amendment to the Norcal Agreement for Single-Family Garbage and Recycling Collection and Processing Services in Hauler Districts A and C to allow an extension for a partial second term of 18 months, as contained in the staff report referenced above and decline to offer an extension. The current Norcal Agreement would be allowed to expire on June 30, 2007.

Dropped.

- (b) Direct staff to continue to proceed with the Contingency Planning Process described in the December 5, 2005 staff report, which provides for the City to move forward with issuing an RFP for Districts A and C in February 2006.

Approved.

- (c) Approve the other two recommendations contained in the December 5th staff report:

- (1) Offer extensions on the GreenTeam Agreement for Single-Family Garbage and Recycling Collection and Processing Services in Hauler District B for a second complete term of three years, from July 1, 2007 through June 30, 2010.
- (2) Offer an extension on the GreenTeam Agreement for Multi-Family Garbage and Recycling Collection and Processing Services in Hauler Districts A and B/C for a second complete term of three years, from July 1, 2007 through June 30, 2010.

Approved.

- (d) Direct staff to return with a revised analysis and five-year Recycle Plus rate recommendations in February 2006, since the five-year rate scenarios presented in the December 5, 2005 Council informational memorandum were based on estimated costs for extending all of the current Recycle Plus contracts through June 30, 2010.

CEQA: Negative Declaration, PP92-05-98. (Environmental Services)

Approved.

8. PUBLIC SAFETY SERVICES

8.1 Approval of Megan's Law Task Force recommendations for improving system of monitoring registered offenders.

Recommendation: Approval of Megan's Law Task Force recommendations for improving system of monitoring registered offenders. (Chavez)

TO BE HEARD IN THE EVENING

Deferred to January 2006.

8.2 Approval of actions related to Hurricane relief efforts.

Recommendation:

- (a) Approval to deploy City staff to Hattiesburg, Mississippi to assist in hurricane relief efforts and to broaden the use of the previously appropriated funds as follows; to include support for the rebuilding of Hattiesburg, Mississippi, while continuing to support local Santa Clara Valley Red Cross efforts.

Approved.

- (b) Adoption of the following 2005-2006 appropriation ordinance amendments in the General Fund:

- (1) Reduce the Santa Clara Valley Red Cross Hurricane Katrina Relief appropriation in Citywide by \$500,000.
 - (2) Establish an appropriation in Citywide to the City Manager for Hurricane Relief Efforts in the amount of \$500,000.

Ordinance No. 27632 adopted.

8.2 Approval of actions related to Hurricane relief efforts. (Cont'd.)

Recommendation:

- (c) Approval of travel by the Mayor to Hattiesburg, Mississippi, from December 18-20. (Source of Funds: Mayor's Office)

(Mayor/City Manager's Office)

Approved.

Council approved a supplemental memorandum from Mayor Gonzales and Vice Mayor Chavez, dated December 13, 2005, recommending the addition to the original recommendation in the memorandum, dated December 8, 2005, recommending authorizing the City Manager to work with local retail stores to provide local Gulf Coast evacuees with financial assistance as they move into permanent housing in our community.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider items 9.1, 9.2, and 9.3 in a Joint Session at X:XX p.m.

9.1 Approval of a contract change order for the King/Story Road Street and Sidewalk Improvements Project.

Recommendation: Approval of a contract change order to pay for acceleration of the project and contingency budget increase in the amount of \$310,000 for a total contingency budget of \$455,000 for the King/Story Road Street and Sidewalk Improvements Project. CEQA: Exempt, PP01-03-050. Council Districts 5 and 7. SNI: East Valley/680. (City's Manager's Office/Redevelopment Agency)

Approved.

9.2 Approval of various actions related to the Scott Street and Clifton Avenue Park Project.

Recommendation: Adoption of resolutions:

- (a) By the City Council authorizing the City Manager to negotiate and execute a Purchase and Sale Agreement, in an amount not to exceed \$1,300,000, with Reza Banikazemi and Mehrdad John Soltani, for the purchase of properties at 487 and 499 Clifton Street, San José, California (APN Nos. 277-12-051, 059, and 600), to include a Right of Entry to conduct a Phase II investigation, with the purchase price dependent upon the result of the Phase II investigation and with any necessary remediation expenses at the sole expense of the City, and delegating to the Director of Public Works the authority to execute all other documents necessary to complete the transaction.

Resolution No. 73024 adopted.

Resolution No. 73027 adopted.

- (b) By the City Council making certain determinations regarding the expenditure of Redevelopment Agency Funds for the acquisition of property that will be publicly owned.

Resolution No. 73025 adopted.

- (c) By the Agency Board authorizing the Executive Director to deposit \$1,330,000, including estimated closing costs, into escrow, contingent upon the City Manager's approval of the Purchase and Sale Agreement with Reza Banikazemi and Mehrdad John Soltani.

Approved.

CEQA: Exempt, File No. PP05-226.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.2 Approval of various actions related to the Scott Street and Clifton Avenue Park Project. (Cont'd.)

Recommendation: Adoption of resolutions:

- (d) Approval of a change in the use of CDBG funding in the amount of \$249,498 from use for the construction of a restroom at O'Connor Park to use for the development of a park at Scott Street and Clifton Avenue, subject to concurrence from the CDBG Steering Committee.. CEQA: Not a Project.

Approved.

Council District 6. SNI: Burbank/Del Monte. (Parks, Recreation and Neighborhood Services)

9.3 Approval of City Council and Redevelopment Agency Committee appointments.

Recommendation: Approval of re-appointments for 2006, to all City Council and Redevelopment Agency Committee and Board and Commissions made during 2005. (Mayor)

Approved.

The Redevelopment Agency Board portion of the meeting adjourned at X:XX p.m.

- **Closed Session Report**

None.

- **Notice of City Engineer's Pending Decision on Final Maps**

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/ Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9720	West side of San Pedro n/o St. James Street	3	City Heights, LLC.	124 Units	SFA	Approve
9746	East side of Cypress Ave., approximately. 260 feet south of Stevens Creek Blvd.	1	Cypress Quarter Homes Corp.	4 Units	SFD	Approve
9647	Westerly side of Meridian Avenue South of Foxworthy Avenue	9	Hacienda Gardens, LLC.	10 Lots	Commercial	Approve
9671	Southwest corner of South Winchester Blvd. and Loma Verde Drive	1	Russell Mahzoon	5 Lots/ 64 Units	Residential/Commercial	Approve

GENERAL PLAN PUBLIC HEARINGS

None

11. PUBLIC HEARINGS

11.1 Public Hearings on Consent Calendar.

- (a) Consideration of an ordinance rezoning the real property located at the northeast corner of Monterey Road and Tully Road (2180 Monterey Road) Equilon Enterprises LLC, Owner; Vinters Distributors, Inc. Developer) from A (PD) Planned Developing Zoning District to A (PD) Planned Development Zoning District to allow commercial uses on a 0.78 gross acre site. CEQA: Addendum to Mitigated Negative Declaration for File No. PDC86-018. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).

PDC04-066 – District 7

Ordinance No. 27634 passed for publication.

- (b) Consideration of ordinances rezoning the real property located on the South side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue (139 and 145 Fleming Avenue) (San José The Lord's Baptist Church and Parmer Inderjit S. and Kathy L., Owners), as follows:

- (1) PDC05-061– Planned Development Prezoning from Unincorporated County to the A (PD) Planned Development Zoning District to allow single-family detached residences on a 2.66 gross acres site.
- (2) C05-079 – Staff Initiated Prezoning from County to R-1-5 Residence Zoning District to allow single-family detached residential use on a 0.22 gross acres site.

CEQA: Mitigated Negative Declaration.

District 5

Continued to 1/24/06.

END OF CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning to allow the demolition of an existing single-family residence and construction of three detached residential units

Recommendation: Consideration of an ordinance rezoning the real property located at/ on the southwesterly corner of State and Essex Streets (1391 State Street) (Martina Victor J., Owner) from Planned Development Rezoning from the R-M Residential District to the A(PD) Planned Development Zoning District to allow the demolition of an existing single-family residence and the construction of three detached residential units on a 0.33 gross acre site. CEQA: Exempt.

PDC05-002 – District 4

Continued to 1/24/06.

11.3 Rezoning to allow up to 80 single-family detached residential units located on the northwesterly side of Lewis Road.

Recommendation: Consideration of an ordinance rezoning the real property located on the northwesterly side of Lewis Road approximately 210 feet southwesterly of Garden Avenue (265 Lewis Road) (Alfred A. and Carolyn Ferrari Trustee, et al. owners) from Planned Development Rezoning from the LI-Light Industrial Zoning District to A (PD) Planned Development Zoning District to allow up to 75 single-family attached residential units and 5 single family detached residential on a 5.65 gross acres site. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).

PDC05-076 - District 7

Ordinance No. 27635 passed for publication.

11.4 Rezoning to allow four single-family detached residences on a 0.59 gross acre site, located at/on the west side of Lincoln Avenue.

Recommendation: Consideration of an ordinance rezoning the real property at/on the west side of Lincoln Avenue, approximately 230 feet northerly of Pine Avenue (1669 Lincoln Ave.) (Lincoln Glen Homes, LLC, Owner) from a Planned Development Rezoning from R-1-8 and R-2 Residential Zoning District to A(PD) Planned Development Zoning District to allow four single-family detached residences on a 0.59 gross acre site. Director of Planning, Building and Code Enforcement recommends approval. Planning Commission recommends approval with direction to staff to work to screen and set back the project from the property to the south (6-0-1). CEQA: Mitigated Negative Declaration.

PDC05-070 - District 6

Ordinance No. 27636 passed for publication.

Staff directed to ensure they are allowed a setback of five feet from the northern property line for the first and second story of the house on Lot 4, and to allow the applicant to achieve a setback to the south property.

11. PUBLIC HEARINGS

11.5 Rezoning allow residential uses on a 19.33 gross acre site, located on 1025 Schiele Avenue.

Recommendation: Consideration of an ordinance rezoning the real property on the east and west sides of Hoover Avenue, north and south sides of Harding Avenue, Pershing Avenue, and Schiele Avenue (1025 Schiele Avenue) (Hagaman Michael R., Owner) from a City Council Initiated – Conventional Rezoning from R-2 Two Family Residence CN Commercial Neighborhood Zoning District, CO Commercial Office Zoning District, and LI Light Industrial Zoning District to R-1-8 Single-Family Residence District to allow residential uses on a 19.33 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (6-0-1). CEQA: Resolution No. 65459.

CC05-100 - District 6

Ordinance No. 27637 passed for publication.

11.6 Appeal of the Planning Commission's decision to approve a Conditional Use Permit in the R-1-8 Zoning District to allow the conversion of five (5) single family houses for religious assembly uses as an expansion of an existing church facility

Recommendation: Appeal of the Planning Commission's decision to approve a Conditional Use Permit in the R-1-8 Zoning District on a 2.06 gross acre site to allow the conversion of five (5) single family houses for religious assembly uses as an expansion of an existing church facility located at/on the southerly terminus of Pinewood Drive south of Williams Road. (4488 Williams Road) (Korean Baptist Church of San José, Owner). Director of Planning, Building and Code Enforcement recommends to uphold Planning Commission's decision to allow the conversion of five single-family houses for religious assembly uses as an expansion of an existing adjacent church (Korean Baptist Church). (Appellant: Rebecca Cooney). CEQA: Exempt.

CP04-007 – District 1

Resolution No. 73026 adopted.

Council approved a memorandum from Council Member LeZotte, dated December 13, 2005, recommending approval of the staff and planning commission recommendation for expansion of religious assembly uses with the following additional conditions: (1) Limited Interim Expansion Allowed – Only two of the five subject houses (1008 and 1011 Pinewood Drive) shall be allowed for conversion to religious assembly uses during the first two years following the issuance of this permit. The remaining three houses shall be used exclusively as single-family residences in accordance with the allowed uses in the R-1-8 Residence District and all applicable sections of Title 20 of the San José Municipal Code. After two years, the applicant may file and subsequently obtain a Conditional Use Permit Amendment for the conversion of the remaining three houses. The Planning Commission must find that the applicant has operated the existing facility during the previous two years in substantial compliance with this permit.

(Item continued on next page.)

11.6 Appeal of the Planning Commission's decision to approve a Conditional Use Permit in the R-1-8 Zoning District to allow the conversion of five (5) single family houses for religious assembly uses as an expansion of an existing church facility. (Cont'd.)

Recommendation: Appeal of the Planning Commission's decision to approve a Conditional Use Permit in the R-1-8 Zoning District on a 2.06 gross acre site to allow the conversion of five (5) single family houses for religious assembly uses as an expansion of an existing church facility located at/on the southerly terminus of Pinewood Drive south of Williams Road. (4488 Williams Road) (Korean Baptist Church of San José, Owner). Director of Planning, Building and Code Enforcement recommends to uphold Planning Commission's decision to allow the conversion of five single-family houses for religious assembly uses as an expansion of an existing adjacent church (Korean Baptist Church). (Appellant: Rebecca Cooney). CEQA: Exempt.
CP04-007 – District 1

Additionally, prior to approval, the Planning Commission shall make all other required findings as set forth in the San José Municipal Code. In the event that the Planning Commission is unable to approve the subsequent Conditional Use Permit Amendment, this subject permit shall limit the expansion of the Church to the two houses as noted above. Site and landscaping improvement directly related to the closure of the Maraschino Drive access only may be deferred until such time as the remaining three houses are approved for conversion through the Conditional Use Permit Amendment process. (2) Compliance Review – Due to the fact that operations at the main facility and expansion of the use to additional residences off of the subject site have frequently occurred without required permits or otherwise in a manner that violates the San José Municipal Code, the Director of Planning over the course of the first two years after the issuance of this permit, will monitor the use for compliance with said permit. At the end of the two year period, the Director of Planning will determine if there is sufficient evidence based on public input, staff investigation and staff review of all of the information received to initiate an "order to show cause" process pursuant to Title 20 of the San José Municipal Code. (3) Children Play Area – The applicant will work with Planning Staff to find an alternative location for an interim children play area(s), based on these new conditions.
Noes: Reed.

11. PUBLIC HEARINGS

- 11.7 Rezoning to allow 32 single-family attached residences on a 1.102 gross acre site, located on the west side of Skylark Drive, at 2482 Almaden Expressway.**

Recommendation: Consideration of an ordinance rezoning the real property located on the west side of Skylark Drive, at the western terminus of Hummingbird Drive (2482 Almaden Expwy.) (Ledeit Raymond A. and Linda Trustee & et al, owner) from a Planned Development Rezoning from CP District to A(PD) Planned Development Zoning District to allow 32 single-family attached residences on a 1.102 gross acre site. CEQA: Negative Declaration. Director of Planning, Building and Code Enforcement recommended approval. Planning Commission has no recommendation (3-3-1).
PDC05-034 - District 6

Ordinance No. 27638 passed for publication.

Direction provided, as follows: 1) The applicant work with Planning staff on architecture at the PD Permit stage to make sure it is high-quality and works well with the styles currently in the neighborhood. 2) The applicant work with Planning staff to increase the setback for the third story to improve the project interface with homes on Skylark Drive. 3) The applicant work with Planning staff to ensure that the podium includes usable common open space with appropriate amenities.

- 11.8 Approval of an ordinance to create a permit process for the review of commercial and industrial condominium project.**

Recommendation: Approval of an ordinance of the City of San José amending Chapter 19.16 of Title 19 of the San José Municipal Code, the Subdivision Code, and adding Chapter 20.175 to Title 20 of the San José Municipal code, the zoning code, to create a permit process for the review of commercial and industrial condominium projects. CEQA: Exempt, PP05-219. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).
Citywide

Ordinance No. 27639 passed for publication.

- 11.9 Direction to staff to prepare an ordinance amending Title 20 to further define the office use in the Zoning Code.**

Recommendation: Direction to staff to prepare an ordinance for Council consideration amending Title 20 to further define the office use in the Zoning Code and to allow a broader range of office uses in the Industrial Park IP Zoning District and to provide greater flexibility to fill buildings in the IP zoning district. (Planning, Building and Code Enforcement)

(Rules Committee referral 12/7/05)

Approved.

- **Open Forum**

- (1) Kim Nguyen spoke in opposition to Item 5.2, Approval of actions related to the acquisition of property by eminent domain for the Roosevelt Multi-service Community Center Project.
- (2) Mark Trout expressed personal religious viewpoints.
- (3) Becky Steel commented on community volunteerism and donation programs.
- (4) Walter Wilson , Helping Hands, Healing Heart and expressed his gratitude from the community members of New Orleans for the assistance made toward the Katrina Relief effort from San Jose.
- (5) Tim Quiggley introduced Hurricane Katrina survivors.

- **Adjournment**

The Council of the City of San José adjourned at 10:44 p.m.

JOINT REDEVELOPMENT AGENCY/CITY COUNCIL MEETING

The City Council convened at 8:38 p.m. to consider Item 8.1 in a Joint Session

9.4 Approval of the Annual Report of Financial Transactions of Community Redevelopment Agencies.

Recommendation: Adoption of resolutions by the City Council and Agency Board approving, in substantial form, the Annual Report of Financial Transactions of Community Redevelopment Agencies, Fiscal Year 2004-05, and directing staff to forward the report to the State of California Controller. [MERGED] (Deferred 12/6/05, Item 8.1)

Resolution No. 73028 adopted.

Agency Resolution No. 5661 adopted.

The City Council portion of the meeting adjourned at 8:38 p.m.